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EXAMINER
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SWIA TEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/649,218

Applicant(s)

COULOMBE

Examiner

Robert P. Swiatek

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-25 and 38-45 is/are allowed.
- 6) ☒ Claim(s) 1-11 and 26-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader et al. (US 1,212,266) in view of Zeller (US 989,469). The horseshoe of Schrader et al. includes a pad 11 and toe clips 5. It lacks an embedded stiffening plate with a traction element. It would have been obvious to one skilled in the art to provide the horseshoe of Schrader et al. with an embedded stiffening plate having a raised traction element, in view of the teaching of Zeller that such a plate reinforces the shoe and provides an anti-slip function (see elements 10, 12 of Zeller). Use of a wedge-shaped pad 11 with Schrader et al. would have been obvious to one skilled in the art seeking to increase the wearing comfort of the shoe. As to claim 6, it is noted that the Schrader et al. horseshoe *could* be sandwiched between a horse's hoof and the mating face of another horseshoe.

Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christopher (US 698,904) in view of Schrader et al. The elastomeric pad 8 of Christopher includes raised traction elements 15, 17 but lacks a toe clip. It would have been obvious to one skilled in the art to provide the pad 8 of Christopher with one or more toe clips, in view of the teaching of

Art Unit: 3643

Schrader et al. that toe clips aid in attaching a horseshoe to a horse's hoof (see page 1, lines 64-68, of Schrader et al.).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 26, 30, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Schrader et al. The sheet 4 of Schrader et al. is considered to constitute a “planar flexure plate,” which includes shaped openings 6.

Claims 27, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader et al. in view of Smith (US 1,516,508). Although the Schrader et al. horseshoe lacks a toe calk, it would have been obvious to employ such a calk with the Schrader et al. shoe, in view of the teaching of Smith that an embedded toe calk provides a horseshoe with enhanced traction and minimizes slippage (see page 1, lines 68-70, of Smith). As to claim 28, the precise configuration of the toe calk would have been obvious to one skilled in the art in order to integrate it with the existing flexure plate of the Schrader et al. horseshoe.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schrader et al. The use of an aluminum or polyurethane flexure plate with Schrader et al., while not disclosed, nonetheless would have been obvious to one skilled in the art wishing to reduce manufacturing costs.

Claims 1-5, 26-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Art Unit: 3643

applicant regards as the invention. In claim 1, line 12, and claim 26, line 8, each occurrence of “the elastomer” lacks a prior antecedent basis; in claim 31, line 5, “the arcuate stiffening ribs” lacks a prior antecedent basis; in claim 36, “said hospital plate” lacks a prior antecedent basis.

Claim 43 is objected to because of the following informalities: In line 5, “on” should be changed to –one–. Appropriate correction is required.

The disclosure is objected to because of the following informalities: On page 1, line 5, the expression –now Pat. No. 6,619,403 B2,– should be inserted after “2002,”; on page 27, lines 11, 12, reference numeral “110b” has been used twice to denote different elements.

Appropriate correction is required.

Claims 1-5 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 29, 31-33, 36, 37 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Application/Control Number: 10/649,216

Page 5

Art Unit: 3643

The patents to Hallanan (US 503,848), Downey (US 684,416), and White (US 825,437) have been cited to provide additional examples of horseshoe structures.

RPS: ©703/308-2700  
30 January 2004

*Robert P. Swiatek*

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PRIMARY EXAMINER  
ART UNIT 333 3643